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October 10, 2024

Honorable Elizabeth S. Stong
U.S. Bankruptcy Court, EDNY
Conrad B. Duberstein Courthouse
271-C Cadman Plaza East, Ste. 595
Brooklyn, NY 11201-1800

Re: Dismissal of *In re Whitehorse 401, LLC*, Bankr. Case No. 24-42466 (ESS);

Dear Judge Stong:

We represent Wilmington Trust, National Association, as Trustee for the Registered Holders of LSTAR Commercial Mortgage Trust 2017-5, Commercial Mortgage Pass-Through Certificates, Series 2017-5 (“LSTAR”), the primary secured creditor in the above-referenced bankruptcy proceeding (the “Case”) commenced by Whitehorse 401, LLC (the “Debtor”) on June 11, 2024 (the “Petition Date”) as a single asset real estate case within the meaning of section 101(51B) of title 11 of the United States Code (the “Bankruptcy Code”).

On July 9, 2024, LSTAR filed a motion to dismiss the Case [Dkt. No. 13] (the “LSTAR MTD”) as a bad faith filing and also asserted that the Debtor did not appear to commence the Case with proper corporate authority. Additionally, LSTAR raised concerns regarding the Debtor’s ability to file a chapter 11 plan or commence monthly payments by September 9, 2024 (i.e., 90-days after the Petition Date) as required under section 362(d)(3) of the Bankruptcy Code. The Debtor has not satisfied its obligations under section 362(d)(3) of the Bankruptcy Code and the Court set the LSTAR MTD for an evidentiary hearing on November 1, 2024.

Subsequently, the Office of the United States Trustee filed its motion to dismiss the Case [Dkt. No. 30] (the “UST MTD”) on the basis that the Debtor’s filing was made without proper corporate authority and that the Debtor has not complied with its obligation to file monthly operating reports. On October 8, 2024, Debtor’s counsel filed a letter with the Court [Dkt. No. 37] stating that the Debtor is unopposed to the UST MTD and that the Debtor would not be appearing at any status conference set in connection therewith.¹

¹ The Debtor’s letter indicates it would not be appearing on October 16, 2024, which is the date the Court initially set the UST MTD for status conference. However, on October 2, 2024, the Court reset this status conference for November 1, 2024. *See* Dkt. No. 35.


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LSTAR supports the UST MTD and requests that the Court enter an order granting the UST MTD and dismissing the Case. Doing so would save significant time and expense that would otherwise be incurred in connection with preparation for the evidentiary hearing on the LSTAR MTD which remains set to take place on November 1, 2024.

Respectfully Submitted,

HOLLAND & KNIGHT LLP

/s/ 

Anthony F. Pirraglia
Partner